

REMARKS

Claims 1, 5, 6, 7, 8, 10-11, 13 and 15-23 are pending in this application. Claims 2-4, 9, 12, and 14 have been cancelled by a previous amendment. In the Office Action, claims 1, 5-8, 11, 13 and 15-23 are rejected over prior art. In view of the remarks below, reconsideration and allowance of the claims are respectfully requested.

CLAIM REJECTION UNDER 35 U.S.C. §102(e)

Claims 1, 5-8, 11, 13, 15-19 and 21-23 are rejected under 35 U.S.C. § 102(e), as being anticipated by Ernam et al. (U.S. 6,148,201). Applicants respectfully traverse this art ground of rejection.

The Examiner alleges that Ernam et al. teaches all the limitations recited in independent claims 1 and 11. For example, the Examiner alleges “the first set includes the plurality of BSCs, and the second set includes the plurality of MSCs, and selecting the MSC based on the load[.]” The Examiner cites column 2, line 65 to column 3, line 2 and FIG. 12, steps 1212 and 1214, of Ernam et al. Applicants disagree.

Claim 1 recites, *inter alia*, “receiving information characterizing usage level of nodes of a second se[, and] using said information by a node of said first set to determine a first node of said second set with which to connect[.]”

According to the Examiner, Ernam et al. teaches that the nodes of the first set are a plurality of BSCs, and that the nodes of the second set are a plurality of MSCs. However, column 2, lines 51-55, provide:

[T]he dispatching switch determines loading of each of the mobile switching centers. Then, based on the loading, the dispatching switch assigns the **mobile unit** to one of the mobile switching centers, the “serving” mobile switching center. (Emphasis added.)

The dispatching switch (DS) 102 determines which MSCs 104, 106, 108 to connect with, not the BSCs 110, 112, 114, 116. See FIG. 1. In addition, steps 1212 provides, “Select **mobiles** that are suitable for reassignment” and step 1214 provides “Update VLRs in serving MSCs for reassigned **mobiles**.” (Emphasis added.) In other words, the DS 102 determines the load of the MSCs 104, 106, 108 and connects **the mobiles** 136, 140 to the appropriate MSCs 104, 106, 108. The BSCs 110, 112, 114, 116 do not receive any usage level information, and the BSCs 110, 112, 114, 116 do not determine which MSCs 104, 106, 108 to connect with. Accordingly, Ernam et al. fails to suggest or teach “receiving information characterizing usage level of nodes of a second set[, and] using said information by a node of said first set to determine a first node of said second set with which to connect,” as recited in claims 1 and 11.

For at least the reasons given above, Applicants submit that independent claims 1 and 11 are patentable over Ernam et al. In addition, dependent claims 5-8, 13, 15-19 and 21-23 are also patentable for respective depending on an allowable base claim.

CLAIM REJECTION UNDER 35 U.S.C. §103(a)

Claims 10 and 20 are rejected under 35 U.S.C. § 103(a), as being unpatentable over Ernam et al. in view of Kuster et al. (USP 7,006,450). Applicants respectfully traverse this art ground of rejection.

As remarked above, independent claims 1 and 11 are patentable over Ernam et al. In addition, Ernam et al. fails to cure the deficiencies noted above. Accordingly, dependent claims 10 and 20 are also patentable for respectively depending on an allowable base claim.

CONCLUSION

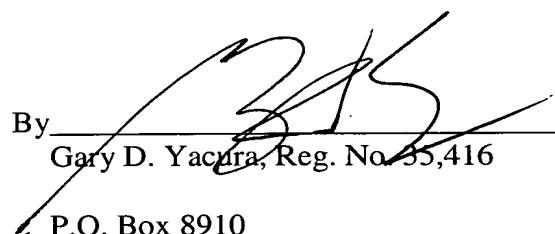
In view of the above remarks, reconsideration of the rejections and allowance of claims 1, 5, 6, 7, 8, 10-11, 13, and 15-23 are pending in this application are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gary D. Yacura at the telephone number of the undersigned below. If the Examiner believes that a personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (703) 668-8000.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, PLC

By 
Gary D. Yacura, Reg. No. 55,416

P.O. Box 8910
Reston, VA 20195
(703) 668-8000

GDY/LYP/tlt